

# EXHIBIT C

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2 Q Do you see Dr. Marks' recommendation in  
3 paragraph 1 with regard to the appropriate  
4 classification for M.?

5 A Yes.

6 Q What, if any, steps did the CSE take,  
7 based upon that recommendation, as you recall?

8 A We changed his classification to multiple  
9 disabilities.

10 Q Do you see there under one, subsection A,  
11 where it refers to a highly specialized alternate  
12 setting?

13 A Yes.

14 Q To what extent, if at all, did the CSE  
15 consider Dr. Marks' recommendations in that regard?

16 A We considered those recommendations.

17 Q How so?

18 A We recommended special class placement  
19 with a smaller ratio of students to teacher and  
20 adults in the room. He was currently in a 12:1:1.  
21 We recommended an 8:1:2.

22 Q Can you explain what the 8:1:2 class looks  
23 like at the Ogden Elementary school?

24 A It's a highly specialized program, small  
25 student to teacher ratio. It's highly

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2 individualized with individualized instruction  
3 occurring. No more than eight students, one  
4 certified special education teacher, two teaching  
5 assistants. There may or may not be other adults in  
6 the room assigned as one-to-one aides to individual  
7 students.

8 Q Do you have an opinion as to whether or  
9 not this would be an appropriate classroom setting  
10 for M.?

11 A Yes.

12 Q What was your opinion with regard to that?

13 A That it was an appropriate classroom  
14 setting for M.

15 Q Why is that?

16 A Because it goes along with Dr. Marks'  
17 recommendations: A highly specialized setting,  
18 small student-teacher ratio that is highly  
19 structured and individualized and anchored to  
20 principles of applied behavior analysis.

21 Q Can you explain how, if at all, that  
22 program is anchored to principles of applied  
23 behavior analysis?

24 A It's highly individualized, there's  
25 opportunities for discrete trials. Additionally, an

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2 ABA therapist was recommended six hours daily for M.

3 Q Please keep Parent's Exhibit R in front of  
4 you, but if you could also look back at District's  
5 Exhibit 6.

6 You just referenced behavior  
7 intervention services to be provided. Can you  
8 point out where that recommendation is on the IEP?

9 A In Exhibit 6?

10 Q Yes.

11 A It's on that first page, the summary page.  
12 But in the IEP it's on page 17 of 20 under related  
13 services. "Behavior intervention services provided  
14 by a BCBA one time daily for six hours."

15 Q Can you explain how that service would be  
16 provided?

17 A A certified BCBA would be in the classroom  
18 with the student every day, all day, attending  
19 therapies, traveling in the building, all and any  
20 activities throughout the school day.

21 Q To what extent, if at all, were behavior  
22 intervention services recommended for the extended  
23 school year?

24 A They were recommended for the extended  
25 school year as well one time daily for three hours.

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2 Q Earlier you said that you felt that the  
3 8:1:2 was appropriate because it was anchored to  
4 principles of ABA; is that true?

5 A I don't recall exactly what I said.

6 Q You also said that it was individualized.  
7 Let me ask you a question.

8 What does it mean to be anchored to  
9 principles of ABA?

10 A I'm not sure.

11 Q You also mentioned that there was an  
12 opportunity for discrete trials. Is that the case  
13 in the 8:1:2?

14 A I'm not sure.

15 Q Did the opportunity for discrete trials  
16 mean that a program is anchored in ABA?

17 A I don't know.

18 Q Earlier in your testimony you discussed  
19 the process for developing an IEP, and you talked  
20 about some of the things that you did prior to the  
21 meeting, such as going to a classroom and visiting  
22 the student in their class, correct?

23 A That's what I do when I prepare for  
24 meetings, yes.

25 Q Do you recall visiting M.K. in his class?

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2 Exhibit 10.

3 A Page 14?

4 Q Yes.

5 A Okay.

6 Q Do you see that section supplementary aids  
7 and services that begins on the bottom third of the  
8 document?

9 A Yes. Supplementary aids and services  
10 program modifications and accommodations, correct?

11 Q Yes, that's the section.

12 A Okay.

13 Q I see the first item there lists teaching  
14 assistant; do you see that?

15 A Yes.

16 Q To what extent, if you recall, did M. have  
17 access to a one-on-one teaching assistant for the  
18 2022-2023 school year?

19 A M. had the teaching assistant for the  
20 entirety of the day.

21 Q Can you explain how that teaching  
22 assistant worked with M. in your classroom?

23 A Sure. M. used a token board throughout  
24 the day as part of a behavioral intervention plan,  
25 and his teaching assistant used that token board

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2 A I think it's on the next page, right, 15?

3 Q The box just to the right of teaching  
4 assistant where it says, "Instructional health,  
5 safety and behavioral needs."

6 A Instructional, health, safety and  
7 behavioral needs." Correct.

8 Q Can you explain to what extent the  
9 teaching assistant provided M. services with regard  
10 to behavioral needs?

11 A Sure. So, we really tried to have a lot  
12 of proactive measures put in place for M. Some of  
13 those proactive measures were just him having that  
14 differentiated work, frequent breaks, use of that  
15 token board. He really needed immediate  
16 gratification for behaviors that were positive.  
17 Having the teaching assistant right next to him,  
18 show him, "Hey, you got a token for doing that.  
19 Great job," was something that would help M. along  
20 throughout the school day and throughout the year.  
21 Also for functional communication  
22 training, M. Often times would cry or scream when  
23 he was frustrated or upset. Giving him those  
24 right words in the moment from the teaching  
25 assistant and having him repeat those words, and

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2 then being able to instantly reward him for that  
3 was really, really important, and that was  
4 something that the teaching assistant was also  
5 able to do. Also having, like, a little visual  
6 schedule which she held throughout the day really  
7 helped M. with pictures, showing him what's next,  
8 that was important. When she was within a -- some  
9 type of academic task with M., being able to see  
10 on a little checklist or a 123 chart, just being  
11 able to check off, "Hey, we did this. Now we're  
12 going to go onto this. When we get to three,  
13 you're going to get a token." Having that was  
14 really important. So, the TA was really able to  
15 do all of these things throughout the day to bring  
16 the curriculum and the material to M. and what he  
17 needed.

18 Q I see there's a supplementary aid listed  
19 under teaching assistant, refocusing and  
20 redirection; do you see that?

21 A I see teaching assistant, refocusing and  
22 redirection.

23 Q Can you explain to what extent the  
24 refocusing and redirection accommodation was  
25 provided to M. during the 2022-2023 school year?



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2 with resource room.

3 Q Do you know a student by the name of M.K.?

4 A Yes, I do.

5 Q How do you know him?

6 A In last school year I was assigned to his  
7 case at the start of the year for five hours of  
8 behavioral consult, and then later in the year more  
9 services were added for direct consult -- I mean for  
10 direct services.

11 Q You had mentioned that you were assigned  
12 to M. For five hours of behavioral consult  
13 services. Can you explain what that is?

14 A Yep. Behavior intervention consult is an  
15 indirect service provided for the teachers on behalf  
16 of the student. So, if the student does have any  
17 supplementary behavioral write-up or any type of  
18 plans, such as a BIP, I would go and work with the  
19 teacher, go through the BIP, and provide support for  
20 that teacher or the one-to-one implementing those  
21 strategies in that plan.

22 Q To what extent did you provide the five  
23 hours of behavioral consult services during the  
24 2022-2023 school year?

25 A In terms of did I -- can you explain

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2 extent?

3 Q Sure. Did you provide those services you  
4 referenced for M. last year?

5 A Yes, I did.

6 Q To whom did you provide those services?

7 A It was his classroom teacher, Ms. Mezrahi,  
8 and the one-to-one aide, as well as the other  
9 classroom aides in the classroom. He had one aide  
10 that was assigned specifically to him, but the aides  
11 had rotated and worked in the classroom with M. as  
12 well and anyone who was in contact in that classroom  
13 with him.

14 Q Do you recall what type of consultation  
15 you provided to them?

16 A Yes. So, we had the plan, we went over  
17 data collection. There were times -- since it is a  
18 consultation, there were times when M. was present  
19 and times when he wasn't. So, if he was present at  
20 the time of consultation, I was able to shadow and  
21 work with the people who work closely with M. If it  
22 was a time when M. wasn't present, we went over any  
23 data collection, issues, or any questions involving  
24 behavior.

25 Q In the file that was sent to you, could

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2 A I believe in March.

3 Q Can you take a look at District's Exhibit

4 19?

5 A Okay. It's open.

6 Q Do you see it says at the top, "Behavior

7 Intervention Plan updated April 2023"?

8 A I do.

9 Q Is this the document you were referring to  
10 that was updated during the 2022-2023 school year?

11 A Yes. This was not the exact document. I  
12 guess the letterhead was added, but yes.

13 Q Can you take a look at page 3 of 3?

14 A You said page 3?

15 Q Page 3 of 3.

16 A Okay.

17 Q Is that your signature there at the bottom  
18 of the page?

19 A That is my signature, yes.

20 Q Does that refresh your recollection as to  
21 whether this was the final document that you had  
22 executed?

23 A Yes.

24 Q I see there's a section on page 1,  
25 "Identify and define the target of problem behaviors

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2 from FBA." Do you see that?

3 A I do.

4 Q To the extent you recall, what was the  
5 reason for updating the behavioral intervention plan  
6 in April of 2023?

7 A During that time there was an increase in  
8 some verbal protests and some physical aggression.

9 Q Do you see that first section, "Identify  
10 and define the target problem behaviors in FBA"?

11 A Yes.

12 Q If you can, take a look over that section  
13 of the BIP.

14 A (Witness is perusing a document.)

15 Q To what extent, if at all, was this  
16 section of the BIP updated pursuant to this April  
17 2023 update?

18 A It wasn't. Those were the targeted  
19 behaviors.

20 Q Do you see the section entitled baseline  
21 data?

22 A I do.

23 Q To what extent, if at all, was this  
24 section updated as part of the April 2023 update?

25 A In April, none of them. I did misspeak

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2 A It was very inconsistent.

3 Q To what extent, if at all, did

4 implementation of the BIP enable M. to attend to his

5 educational needs?

6 A The BIP, based on my providing and also

7 seeing the teachers during consult, the BIP was

8 definitely used with fidelity for the student. All

9 the key proponents of the BIP, questions, being

10 granted the break, using the token board

11 appropriately, everything was done with fidelity, in

12 my opinion.

13 Q Based upon that implementation, do you

14 have an opinion as to whether it was enabling M. to

15 more readily access his education?

16 A I believe we were offering the teaching

17 strategies, yes, to best support him, to utilize his

18 education.

19 MR. VIGLIOTTA: Thank you. I

20 have no further questions.

21 HEARING OFFICER: Ms. Venditti,

22 did you want to cross-examine the

23 witness?

24 MS. VENDITTI: I do. I just ask,

25 could we take a ten-minute break?